

Norman J. Ornstein

**Resident Scholar
American Enterprise Institute**

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Subcommittee on Elections**

**Expanding and Improving Opportunities to
Vote-by-Mail or Absentee**

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Madame Chairwoman, Mr. Ranking Member, and Members of the Committee: For the past 26 years, I have been an absentee voter in federal general elections. My obligations on federal Election Days require me to be in New York City, away from my election jurisdiction. I am certainly not alone. Many eligible voters are away from their home precincts on Election Day: students away at school, soldiers on active duty, people with illnesses, and citizens who travel. Absentee voting is an essential part of the voting system. But there can be too much of a good thing. Absentee voting also has many problems, potential and real, both for the integrity of elections and the importance of Election Day as a time when citizens join together for the supremely individual act of choosing leaders in the privacy of a voting booth, all with a common base of knowledge drawn from a campaign.

I have been working with two colleagues – Tom Mann of the Brookings Institution and John Fortier at AEI – on the myriad election administration reform issues as part of the AEI-Brookings Election Reform Project. Fulfilling our charge to bring together academics and policymakers, we have had the opportunity to review some cutting edge research on election administration. In addition to the project, John has taken a special interest in today's topic with his book, *Absentee and Early Voting: Trends, Promises, and Perils*. I have written a number of articles in places like the *New York Times*, the *Washington Post* and *Roll Call* over several years on vote-by-mail, motivated by its sharp expansion and the aggressive proselytization of it by officials in Oregon and Washington State. Some of the ideas proposed in Rep. Susan Davis' (D-CA) legislation would improve election administration with respect to absentee voting, especially in terms of integrity. But you should be aware of the weaknesses of absentee voting, wary of forcing the states to implement it wholesale, and dubious of its proselytizers, who often exaggerate its benefits and downplay its costs.

Absentee voting began for many of the same reasons we consider today. Soldiers during the Civil War, railroad workers, the elderly and sick all had difficulty getting to the polls on the designated Election Day. The earliest advocates of absentee voting realized that there would be a tradeoff between convenience voting and ballot integrity. Not much has changed today. Contrary to some of the findings of Congress presented in Representative Davis' bills, once a ballot leaves the security provided by the traditional polling place, it is much more difficult to guarantee that the intended person is voting, his or her selection is made without outside and undue influence, and that the voted ballot makes it safely back to the elections office for tabulation. While absentee voting may be essential as a small part of our voting system, any expansion of the practice without a marked improvement in security is a recipe for disaster.

The traditional polling place offers protections that are impossible to provide in absentee voting. Some examples: Since the inception of the Australian ballot, Americans have come to see secrecy in voting as a right. No longer do we vote under the watchful eye of the political machines. Once a voter steps up to the voting machine, no matter what she has said to anyone else about her choice, the secrecy of the ballot protects the voter from retaliation. This is one protection that vote-by-mail can never provide. How do we stop a husband from influencing his wife's vote as they sit around the kitchen table after dinner (or vice versa?) What about a church or synagogue group voting as one unit because members "all share the same beliefs?" Or a shop steward insisting that workers all vote together on the workplace floor? With vote-by-mail, the possibility for voter intimidation, direct and indirect, is very real. And the reality is that serious

corruption is far more widespread with absentee ballots than it is with votes cast at the polls. Consider the story, published just last week in the Dallas Morning News about a Texas elected official convicted of manipulating “a large number of” absentee ballots to secure election.

Beyond the direct corruption, which is not limited to Texas, widespread or universal vote-by-mail represents other losses to our system of campaigns and elections. The vote is a precious thing, and it should not be reduced routinely to the equivalent of a Publishers Clearing House ballot. Congregating with one’s fellow citizens at a neighborhood polling place and then going into a booth, closing the curtain to create a zone of privacy, and casting one’s individual vote choices, underscores the combination of commitment to society and individual freedom. To be sure, this is a romantic notion of democracy, and to make it work requires that voting at the polling place be convenient and accessible – two things which are in short supply, and about which I have many constructive suggestions. They would not be costless, but it is a small price to pay to enhance our democratic norms.

Moreover, voting at the polls on Election Day ensures that voters will make their choices from a common base of knowledge. In many jurisdictions, absentee ballots can be cast weeks before the election –the equivalent of calling the outcome of an NBA game at the end of the third quarter. Just as much of the meaningful action in a basketball game takes place in the final two minutes, much of the most important dialogue or behavior in a campaign comes in the pressure-packed final few days, long after many voters have voted.

There is another problem. In 2002, this committee spent a lot of time discussing the ways to improve election administration. The Help America Vote Act of 2002 plugged a lot of holes and did a lot of good. For example, section 301 of HAVA requires that voting systems be designed to disallow accidental overvotes, which is a protection not offered when voters use absentee ballots. The law further mandates that voters have the opportunity to change their preferences before casting the ballot. With a vote-by-mail, any mistake can invalidate the ballot. Since absentee voting as a practice is here to stay, these two examples are unavoidable obstacles. However, you should be wary of mandating the expansion of the absentee voting franchise to a general public that is largely unaware of these drawbacks.

As for the legislation being considered today, I will first discuss the proposals with which I agree. H.R. 1646, the Mail-In Ballot Tracking Act of 2007, is a laudable effort to control absentee ballots much more carefully. Thorough tracking of the ballot as it leaves the elections office, through the US Postal Service, and back to the elections office should be a no-brainer. It is shocking that the current system allows ballots to float through the system unaccounted for, as is the current system in most states. Requiring that states allow absentee voters to confirm that their ballots have been received and counted by the local election officials will further raise the confidence in the voters’ minds about absentee voting. H.R. 1646 serves only to increase the integrity of the absentee ballot regimes already in place in the states without mandating the expansion of absentee voting nationwide.

One of the bills before this committee today, though, does require every state to provide no-excuse absentee voting. Aside from forcing the states to homogenize their disparate voting regimes, H.R. 281, the Universal Right to Vote by Mail Act of 2007, fails to include mandatory

security provisions to make up for what could be a large increase in the most insecure way of voting in the United States.

Let me add a comment here on the Oregon all vote-by-mail system. Contrary to the statements by many vote-by-mail activists, universal vote-by-mail does not raise turnout in the federal races that would be covered by the proposed legislation. While it is possible that in very low turnout elections – elections for local government seats or issues – there might be a measurable increase in turnout, there has been very good research done recently by Paul Gronke, Michael Traugott, Curtis Gans and others, which shows that Oregon's vote-by-mail experiment has not significantly raised turnout.

Except in a handful of low turnout local elections, nearly all the people who vote by mail would have gone to the polls and are simply voting by a different method. For those not motivated to vote, the convenience of vote-by-mail has not created a new motivation. Outside forces affecting the elections immediately following the switch to all vote-by-mail made it seem like Oregon had experienced a rise in turnout. But a check of Oregon compared to other states experiencing the same outside factors but not rapidly expanding vote-by-mail shows that Oregon's numbers are in line with others.

Still, the part of the process that Oregon does get right is its universal signature match program by which all vote-by-mail ballots are screened by a human to ensure that the proper person is voting. When an Oregonian registers to vote, his or her signature is required to be kept on file and is made available digitally to the local jurisdictions for comparison purposes. This is an excellent way to block some fraud in absentee voting. With universal signature match, it would be very difficult for one person to cast many absentee ballots. On its own, without the federal government's directive, Oregon has put in place the security measures required for the large-scale increase in absentee voting that would likely accompany the passage of this legislation. But who will be paying for this security if H.R. 281, the Universal Right to Vote by Mail Act of 2007, becomes law?

As of the 2006 elections, 29 states allowed no-excuse absentee voting as would be required by H.R. 281. What most of these states have not done in this rapid shift towards convenience over integrity is to put in place the security systems to prevent absentee voting fraud. Expanding the absentee voting franchise is not a wise decision. But it is particularly unwise if it is not accompanied by funded ballot security measures. H.R. 281 provides neither security nor funding. The Mail-In Ballot Tracking Act would be a step in the right direction for ballot security, but there are no authorized funds to pay for its requirements. Absentee voting is a necessary evil, but before you decide to rank convenience over ballot security based on disputed voter turnout research, please consider all of the consequences.

Thank you for the opportunity to testify today.